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**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:09-cv-00652-ESH**

NEXTERA ENERGY, INC. v. INTERNAL REVENUE
SERVICE

Assigned to: Judge Ellen S. Huvelle

Case in other court: USCA, 10-05239

Date Filed: 04/09/2009

Date Terminated: 05/19/2010

Jury Demand: None

Nature of Suit: 895 Freedom of
Information Act

Jurisdiction: U.S. Government Defendant

Cause: 05:552 Freedom of Information Act

Plaintiff

FPL GROUP, INC.,
TERMINATED: 07/01/2010

represented by **Robert T Carney**
FLORIDA POWER & LIGHT
COMPANY
General Counsel Office
801 Pennsylvania Avenue, NW
Suite 220
Washington, DC 20004
(202) 349-3344
Fax: (202) 347-7076
Email: robert.carney@fpl.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

NEXTERA ENERGY, INC.

represented by **Robert T Carney**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

INTERNAL REVENUE SERVICE

represented by **Carmen M. Banerjee**
U.S. DEPARTMENT OF JUSTICE
555 Fourth Street, NW
Suite 6810
Washington, DC 20001
(202) 307-6423
Email: carmen.m.banerjee@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
04/09/2009	<u>1</u>	COMPLAINT against INTERNAL REVENUE SERVICE (Filing fee \$ 350, receipt number 4616019642) filed by FPL GROUP, INC.,. (Attachments: # <u>1</u> Civil Cover Sheet)(td,) (Entered: 04/13/2009)
04/09/2009		SUMMONS (3) Issued as to INTERNAL REVENUE SERVICE, U.S. Attorney and U.S. Attorney General (td,) (Entered: 04/13/2009)
04/09/2009	<u>2</u>	LCvR 7.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by FPL GROUP, INC., identifying Corporate Parent FPL GROUP CAPITAL, INC.,, Corporate Parent FPL RECOVERY FUNDING LLC, Corporate Parent FPL GROUP CAPITAL TRUST I, Corporate Parent FLORIDA POWER & LIGHT COMPANY for FPL GROUP, INC.,. (td,) (Entered: 04/13/2009)
04/13/2009	<u>3</u>	ENTERED IN ERROR.....SUMMONS Returned Executed by FPL GROUP, INC.,. INTERNAL REVENUE SERVICE served on 4/9/2009, answer due 5/11/2009. (Carney, Robert) Modified on 4/14/2009 (jf,). (Entered: 04/13/2009)
04/14/2009		NOTICE OF CORRECTED DOCKET ENTRY: Document No. re <u>3</u> Summons Returned Executed in FOIA case was entered in error and counsel was instructed to refile said with certified green card. (jf,) (Entered: 04/14/2009)
04/22/2009	<u>4</u>	ENTERED IN ERROR.....SUMMONS Returned Executed by FPL GROUP, INC.,. INTERNAL REVENUE SERVICE served on 4/14/2009, answer due 5/14/2009. (Carney, Robert) Modified on 4/23/2009 (jf,). (Entered: 04/22/2009)

04/22/2009	5	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on Attorney General. Date of Service Upon Attorney General 4/16/09., RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to INTERNAL REVENUE SERVICE served on 4/14/2009, answer due 6/15/2009., RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the US Attorney, served on 4/15/2009, answer due 6/15/2009. (jf,) (Entered: 04/23/2009)
04/23/2009		NOTICE OF CORRECTED DOCKET ENTRY: Document No. re 4 Summons Returned Executed in FOIA case was entered in error and refiled by the Clerk's Office under the correct category. (jf) (Entered: 04/23/2009)
04/24/2009	6	MOTION for Leave to File <i>Substitute Cover Sheet</i> by FPL GROUP, INC., (Carney, Robert) (Entered: 04/24/2009)
04/27/2009		MINUTE ORDER granting 6 Plaintiff's Motion for Leave to File Substitute Cover Sheet. Signed by Judge Ellen S. Huvelle on 4/27/2009. (VT) (Entered: 04/27/2009)
04/27/2009	7	NOTICE of Corrected Civil Coversheet by FPL GROUP, INC., re 1 Complaint (jf,) (Entered: 04/27/2009)
05/07/2009	8	NOTICE of Appearance by Carmen M. Banerjee on behalf of INTERNAL REVENUE SERVICE (Banerjee, Carmen) (Entered: 05/07/2009)
06/15/2009	9	ANSWER to 1 Complaint by INTERNAL REVENUE SERVICE. Related document: 1 Complaint filed by FPL GROUP, INC.,.(Banerjee, Carmen) (Entered: 06/15/2009)
06/26/2009	10	STATUS REPORT <i>and Joint Scheduling Order</i> by INTERNAL REVENUE SERVICE. (Banerjee, Carmen) (Entered: 06/26/2009)
06/29/2009		MINUTE ORDER setting forth briefing schedule: Defendant shall file its dispositive motion on or before September 15, 2009; plaintiff shall file its opposition and cross-motion on or before October 2, 2009; defendant shall file its reply and opposition on or before October 14, 2009; and plaintiff shall file its reply on or before October 22, 2009. Signed by Judge Ellen S. Huvelle on 6/29/2009. (VT) (Entered: 06/29/2009)
07/01/2009		Set/Reset Deadlines: Cross Motions due by 10/2/2009. Response to Cross Motions due by 10/14/2009. Reply to Cross Motions due by 10/22/2009. Dispositive Motions due by 9/15/2009. Response to Dispositive Motions due by 10/2/2009. Reply to Dispositive Motions due by 10/14/2009. (gdf) (Entered: 07/01/2009)
09/09/2009	11	Unopposed MOTION for Order <i>To Modify Briefing Schedule</i> by INTERNAL REVENUE SERVICE (Attachments: # 1 Text of Proposed Order)(Banerjee, Carmen) (Entered: 09/09/2009)

09/09/2009		MINUTE ORDER granting 11 Unopposed Motion for Order to Modify Briefing Schedule. Briefing schedule modified as follows: Defendant shall file its dispositive motion on or before October 14, 2009; plaintiff shall file its opposition and cross-motion on or before November 10, 2009; defendant shall file its reply and opposition on or before November 23, 2009; and plaintiff shall file its reply on or before December 4, 2009. Signed by Judge Ellen S. Huvelle on September 9, 2009. (AG) (Entered: 09/09/2009)
09/10/2009		Set/Reset Deadlines: Cross Motions due by 11/10/2009. Response to Cross Motions due by 11/23/2009. Reply to Cross Motions due by 12/4/2009. Dispositive Motions due by 10/14/2009. Response to Dispositive Motions due by 11/10/2009. Reply to Dispositive Motions due by 11/23/2009. (gdf) (Entered: 09/10/2009)
10/14/2009	12	MOTION for Summary Judgment by INTERNAL REVENUE SERVICE (Attachments: # 1 Statement of Facts, # 2 Text of Proposed Order, # 3 Declaration, # 4 Declaration, # 5 Declaration, # 6 Declaration, # 7 Declaration)(Banerjee, Carmen) (Entered: 10/14/2009)
10/15/2009	13	ERRATA -Two Page Motion for Summary Judgment by INTERNAL REVENUE SERVICE 12 MOTION for Summary Judgment filed by INTERNAL REVENUE SERVICE. (Attachments: # 1 Errata)(Banerjee, Carmen) (Entered: 10/15/2009)
10/16/2009	14	MOTION for Protective Order pursuant to Fed. R. Civ P 26(c) by INTERNAL REVENUE SERVICE (Attachments: # 1 Declaration, # 2 Text of Proposed Order) (Banerjee, Carmen) (Entered: 10/16/2009)
10/26/2009	15	Memorandum in opposition to re 14 MOTION for Protective Order pursuant to Fed. R. Civ P 26(c) filed by FPL GROUP, INC.,. (Attachments: # 1 Exhibit Exhibit A to Plaintiff's Opposition, # 2 Exhibit Exhibit B to Plaintiff's Opposition, # 3 Declaration Declaration of Robert T. Carney, # 4 Declaration Declaration of James P. Dawson, # 5 Text of Proposed Order Proposed Order)(Carney, Robert) (Entered: 10/26/2009)
11/02/2009	16	REPLY to opposition to motion re 14 MOTION for Protective Order pursuant to Fed. R. Civ P 26(c) filed by INTERNAL REVENUE SERVICE. (Banerjee, Carmen) (Entered: 11/02/2009)
11/04/2009		MINUTE ORDER: Having considered the defendant's 14 Motion for Protective Order and plaintiff's opposition thereto, the Court will grant the motion without prejudice to the plaintiff raising its arguments in response to defendant's pending motion for summary judgment. Signed by Judge Ellen S. Huvelle on 11/04/09. (lcesh1) (Entered: 11/04/2009)
11/10/2009	17	Memorandum in opposition to re 12 MOTION for Summary Judgment filed by FPL GROUP, INC.,. (Attachments: # 1 Statement of Facts, # 2 Statement of Facts, # 3 Declaration, # 4 Exhibit, # 5 Exhibit, # 6 Exhibit, # 7 Exhibit, # 8 Text of Proposed Order)(Carney, Robert) (Entered: 11/10/2009)

11/10/2009	<u>18</u>	Cross MOTION for Summary Judgment by FPL GROUP, INC., (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Statement of Facts, # <u>3</u> Declaration, # <u>4</u> Declaration, # <u>5</u> Exhibit, # <u>6</u> Exhibit, # <u>7</u> Exhibit, # <u>8</u> Exhibit, # <u>9</u> Text of Proposed Order)(Carney, Robert) (Entered: 11/10/2009)
11/19/2009	<u>19</u>	Unopposed MOTION for Order <i>Modifying Briefing Schedule</i> by INTERNAL REVENUE SERVICE (Attachments: # <u>1</u> Text of Proposed Order)(Banerjee, Carmen) (Entered: 11/19/2009)
11/19/2009		ORDER granting <u>19</u> defendant's Unopposed Motion for Order Modifying Briefing Schedule. It is hereby ORDERED that by November 27, 2009, the Service shall file one brief in reply to FPL's opposition to the Service's motion and in opposition to FPL's crossmotion; and it is further ORDERED that by no later than December 10, 2009, FPL shall file a reply to the Service's opposition to FPL's cross-motion. Signed by Judge Ellen S. Huvelle on November 19, 2009. (AG) (Entered: 11/19/2009)
11/19/2009		Set/Reset Deadlines: Reply due by 11/27/2009. Response to Cross Motion due by 11/27/2009. Reply to Cross Motion due by 12/10/2009. (gdf) (Entered: 11/19/2009)
11/27/2009	<u>20</u>	REPLY to opposition to <u>12</u> MOTION for Summary Judgment <i>Memo in filed by INTERNAL REVENUE SERVICE. (Attachments: # <u>1</u> Declaration Third Cooper Decl, # <u>2</u> Exhibit Cooper Ex, # <u>3</u> Exhibit Cooper Ex, # <u>4</u> Declaration Curren Decl, # <u>5</u> Declaration Banerjee Decl with Exs.)</i> (Banerjee, Carmen) <i>Modified to correct docket text on 11/30/2009 (jf,).</i> (Entered: 11/27/2009)
11/27/2009	<u>21</u>	ENTERED IN ERROR.....RESPONSE re <u>18</u> Cross MOTION for Summary Judgment <i>Reply to FPL's Statment of Material Facts</i> filed by INTERNAL REVENUE SERVICE. (Banerjee, Carmen) Modified on 11/30/2009 (jf,). (Entered: 11/27/2009)
11/30/2009		NOTICE OF CORRECTED DOCKET ENTRY: Document No. re <u>21</u> Response to Document was entered in error and counsel was instructed to refile said pleading as one complete filing. (jf,) (Entered: 11/30/2009)
11/30/2009	<u>22</u>	Memorandum in opposition to re <u>18</u> Cross MOTION for Summary Judgment <i>Memorandum in Reply and in Response to FPL Cross Motion</i> filed by INTERNAL REVENUE SERVICE. (Attachments: # <u>1</u> Statement of Facts IRS Reply to FPL's Statments of Material Facts, # <u>2</u> Declaration Third Cooper Decl., # <u>3</u> Exhibit Third Cooper Decl. Exs. A-E, # <u>4</u> Exhibit Third Cooper Decl. Ex. F, # <u>5</u> Declaration Curren Decl., # <u>6</u> Declaration Banerjee Decl. & Exs.)(Banerjee, Carmen) (Entered: 11/30/2009)
12/10/2009	<u>23</u>	REPLY to opposition to motion re <u>18</u> Cross MOTION for Summary Judgment filed by FPL GROUP, INC.,. (Carney, Robert) (Entered: 12/10/2009)

12/10/2009	24	SURREPLY to re 12 MOTION for Summary Judgment filed by FPL GROUP, INC. (See Docket Entry 23 to view document). (znmw,) (Entered: 12/11/2009)
03/12/2010	25	ORDER granting in part and denying in part 12 defendant's Motion for Summary Judgment; denying in part 18 plaintiff's Cross-Motion for Summary Judgment; and ordering defendant to conduct an additional search, produce certain documents for <i>in camera</i> review, and file an additional affidavit. Signed by Judge Ellen S. Huvelle on 3/12/10. (lcesh2) (Entered: 03/12/2010)
03/12/2010	26	MEMORANDUM OPINION accompanying 25 Order. Signed by Judge Ellen S. Huvelle on 3/12/10. (lcesh2) (Entered: 03/12/2010)
04/20/2010	27	AFFIDAVIT re 13 Errata, 25 Order on Motion for Summary Judgment,,, <i>Declaration of L. Clarke</i> by INTERNAL REVENUE SERVICE. (Banerjee, Carmen) (Entered: 04/20/2010)
04/20/2010	28	AFFIDAVIT re 13 Errata, 25 Order on Motion for Summary Judgment,,, <i>First Keys Del & Vaughn Index</i> by INTERNAL REVENUE SERVICE. (Banerjee, Carmen) (Entered: 04/20/2010)
04/20/2010	29	AFFIDAVIT re 13 Errata, 25 Order on Motion for Summary Judgment,,, <i>Second Decl of Keys & Vaughn Index</i> by INTERNAL REVENUE SERVICE. (Banerjee, Carmen) (Entered: 04/20/2010)
04/20/2010	30	AFFIDAVIT re 13 Errata, 25 Order on Motion for Summary Judgment,,, <i>Third Decl of Keys & Vaughn Index</i> by INTERNAL REVENUE SERVICE. (Banerjee, Carmen) (Entered: 04/20/2010)
04/20/2010	31	AFFIDAVIT re 13 Errata, 25 Order on Motion for Summary Judgment,,, <i>Fourth Keys Decl & Vaughn Index</i> by INTERNAL REVENUE SERVICE. (Banerjee, Carmen) (Entered: 04/20/2010)
04/20/2010		MINUTE ORDER: It is hereby ordered that if plaintiff wants to respond to defendant's 27 28 29 30 31 affidavits that were filed this date, a response shall be filed on or before May 4, 2010. <i>Cf.</i> Local Civ. R. 7(b) (giving 14 days for opposition to motion). Signed by Judge Ellen S. Huvelle on 4/20/10. (lcesh2) (Entered: 04/20/2010)
04/22/2010	32	NOTICE of <i>In Camera Submission</i> by INTERNAL REVENUE SERVICE re 25 Order on Motion for Summary Judgment,,, (Banerjee, Carmen) (Entered: 04/22/2010)
05/04/2010	33	RESPONSE re Order, filed by FPL GROUP, INC.,. (Attachments: # 1 Appendix, # 2 Text of Proposed Order)(Carney, Robert) (Entered: 05/04/2010)

05/14/2010	34	MEMORANDUM OPINION accompanying 35 Order. Signed by Judge Ellen S. Huvelle on 5/14/10. (lcesh2) (Entered: 05/14/2010)
05/14/2010	35	ORDER granting 12 defendant's motion for summary judgment and denying 18 plaintiff's cross-motion for summary judgment. Signed by Judge Ellen S. Huvelle on 5/14/10. (lcesh2) (Entered: 05/14/2010)
06/30/2010	36	MOTION for Order <i>to Change Caption</i> by FPL GROUP, INC., (Attachments: # 1 Text of Proposed Order)(Carney, Robert) (Entered: 06/30/2010)
06/30/2010		MINUTE ORDER: The Court hereby grants plaintiff's unopposed 36 Motion to Change Caption. Signed by Judge Ellen S. Huvelle on 6/30/10. (lcesh2) (Entered: 06/30/2010)
07/12/2010	37	NOTICE OF APPEAL by NEXTERA ENERGY, INC. RE 35 ORDER granting 12 defendant's motion for summary judgment and denying 18 plaintiff's cross-motion for summary judgment. Filing fee \$ 455, receipt number 0090-2233553. Fee Status: Fee Paid. Parties have been notified. (Carney, Robert) Modified on 7/13/2010 to add link(jf,). (Entered: 07/12/2010)
07/13/2010	38	Transmission of the Notice of Appeal, Order Appealed, and Docket Sheet to US Court of Appeals. The Court of Appeals fee was paid this date re 37 Notice of Appeal,. (jf,) (Entered: 07/13/2010)
07/16/2010		USCA Case Number 10-5239 for 37 Notice of Appeal, filed by NEXTERA ENERGY, INC. (rdj) (Entered: 07/16/2010)
04/11/2011	39	ORDER of USCA (certified copy) as to 37 Notice of Appeal, filed by NEXTERA ENERGY, INC. ; USCA Case Number 10-5239. ORDERED that the motion to dismiss the appeal be granted and the case is hereby dismissed. (zsmm) (Main Document 39 replaced on 4/14/2011) (ls,). (Entered: 04/13/2011)

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